

Application Serial No. 10/525,902
Reply to Office Action of February 4, 2008

PATENT
Docket: CU-4101

REMARKS

In the Office Action, dated February 4, 2008, the Examiner states that Claims 1 and 3-15 are pending and Claims 1 and 3-15 are rejected. By the present Amendment, Applicant amends Claims 1, 5, 7, 9, and 10, cancels Claims 3-4, 6, and 11-15, and adds new Claim 16.

In the Office Action, Claims 1 and 3-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Robson (U.S. Pub. 2003/0148895) in view of Emert (U.S. 5,498,809) and Shanklin (U.S. 6,008,165). Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Robson in view of Emert and Shanklin, and further in view of Curtis (U.S. Pub. 2003/0220209).

The present application claims a lubricating oil composition comprising a lubricant base oil, an ester of boric acid, an ashless antioxidant, a metal-based detergent, and an ashless dispersant. None of the cited references disclose all the components. Moreover, the Applicant respectfully disagrees that the combination of Robson, Emert, and Shanklin is easily combinable and causes the present invention to be deemed obvious. Emert discloses ashless antioxidant and ashless dispersant. Shanklin discloses ester of boric acid of (A) component. Emert and Shanklin both contain a phosphorus component. Specifically, Emert discloses in column 68, line 42, "dihydrocarbyl dithiophosphates" as an antiwear agent, and Shanklin discloses in Example B-1, "zinc phosphorodithioate" as a metal salt of a phosphorus acid. In contrast, in paragraph 0033 of Robson it is disclosed "[t]he amount of phosphorus . . . More preferably, it is zero." Therefore, Robson excludes phosphorus. Therefore, the Applicant disagrees that a person skilled in the art would have motivation to combine the three references and be taught the limitation "said composition contains substantially no metal salts of dithiophosphoric acid" as is recited in Claim 1. Thus, the Applicant respectfully requests the obviousness rejections based on the combination of Emert, Shanklin, and Robson be deemed overcome.

Regardless, the Applicant has also amended Claim 1, 9 and 10 to claim the feature "the metal ratio of the component (C) is 3 or less." This feature is not disclosed in any of the references, and therefore, in view of this amendment the claims are not obvious in view of the cited references.

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In light of the foregoing response, all the outstanding rejections are considered overcome. Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

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Date



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